

PATENT**Application # 10/042,165****Attorney Docket # 2000-0672B (1014-201)****REMARKS**

The Examiner is respectfully thanked for the consideration provided to this application. Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Each of claims 1, 3, 5, 6, 8-10, 12-19, 21, 23-29, and 31-37 has been amended for at least one reason unrelated to patentability, including at least one of: to explicitly present one or more limitations, phrases, words, terms, and/or elements implicit in the claim as originally written when viewed in light of the specification, thereby not narrowing the scope of the claim; to detect infringement more easily; to enlarge the scope of infringement; to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.); to expedite the issuance of a claim of particular current licensing interest; to target the claim to a party currently interested in licensing certain embodiments; to enlarge the royalty base of the claim; to cover a particular product or person in the marketplace; and/or to target the claim to a particular industry.

Claims 1-37 are now pending in this application. Each of claims 1, 10, 19, and 28 are in independent form.

I. The Anticipation Rejections

Each of claims 1-5, 7, 10-14, 16, 19-23, 25, 28-33, and 35 was rejected as anticipated under 35 U.S.C. 102(e). In support of the rejection, various portions of U.S. Patent No. 6,732,315 ("Yagil") were applied.

These rejections are respectfully traversed as moot in light of the present claim amendments. Specifically, each of independent claims 1, 10, 19, and 28; from one of which each of claims 2-5, 7, 11-14, 15, 20-23, 25, 29-33, and 35 depends; states, *inter alia*, yet the applied portions of Yagil do not teach, "the SIFG comprising a blocking signal adapted to prevent the HPNA v2 STA from recognizing an existence of the SIFG".

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II. The Obviousness Rejections

Each of claims 6, 8, 9, 15, 17, 18, 24, 26, 27, 34, 36, and 37 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,732,315 ("Yagil").

Each of these rejections is respectfully traversed as moot in light of the present claim amendments. As stated above, each of independent claims 1, 10, 19, and 28; from one of which each of claims 6, 8, 9, 15, 17, 18, 24, 26, 27, 34, 36, and 37 depends; states, *inter alia*, yet the applied portions of Yagil do not teach, "the SIFG comprising a blocking signal adapted to prevent the HPNA v2 STA from recognizing an existence of the SIFG".

A. Official Notice

Regarding Official Notice, MPEP § 2144.03.A states (emphasis added):

[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of **instant and unquestionable demonstration as being well-known**. For example, assertions of... specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. *See also In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979).

Further, if an applicant traverses the examiner's assertion of official notice, the examiner **must provide documentary evidence** in the next Office Action if the rejection is to be maintained. *See* 37 CFR 1.104(c)(2) and MPEP 2144.03C. *See also In re Zurko*, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) ("[T]he Board cannot simply reach conclusions based on its own understanding or experience, or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.").

A bald assertion of knowledge generally available to one of ordinary skill in the art to bridge the evidentiary gap is improper. Such unfounded assertions are not permissible substitutes for evidence. *See In re Lee*, 277 F.3d 1338, 1435, 61 USPQ2d 1430, 1435 (Fed. Cir.

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2002). That is, deficiencies of the cited references can not be remedied by general conclusions about what is basic knowledge or common sense to one of ordinary skill in the art. *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001). An assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. *Id.*

To the extent that Official Notice is explicitly or implicitly utilized to support any rejection, such as the rejection of any of claims 1-37, each such rejection is respectfully traversed and citation and provision of a reference that supports the rejection is respectfully requested. Specifically, Applicant respectfully traverses the apparent Official Notice taken on Page 12 of the present Office Action, which states, "it is well known to those skilled in the art that time duration fields are necessary in a time-managed methodology and/or protocol [i.e., to address packet/message latency—for example, IP packets: TTL]". Applicant respectfully requests citation and provision of a reference that supports this statement and the associated rejections based thereon.

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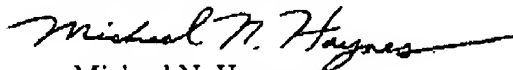
CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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